

IN THE TEXAS COURT OF CRIMINAL APPEALS
 Austin, Texas

MARIAN FRASER,
 APPELLANT

FILED
 COURT OF CRIMINAL APPEALS
 7/7/2017
 DEANA WILLIAMSON, CLERK

NO. PD-_____-17

V.

THE STATE OF TEXAS,
 APPELLEE

**STATE'S FIRST MOTION FOR EXTENSION OF TIME
 TO FILE PETITION FOR DISCRETIONARY REVIEW**

TO THE HONORABLE COURT OF APPEALS:

The State requests that the Court grant a 30-day extension of time for the filing of its Petition for Discretionary Review. TEX. R. APP. P. 10.5(b) & 68.2(c).

The following allegations are made in support of this motion:

- I -

The court below is the 19th District Court of McLennan County, Texas. The style and numbers of the case in the trial court is *The State of Texas v. Marian Fraser*, cause number 2014-158-C1.

- II -

Appellant was convicted of a felony offense of Murder and was sentenced by a jury to 50 years' confinement and a \$10,000 fine.

- III -

The court below is the Court of Appeals for the Seventh Court of Appeals District of Texas. The style and number of the case in that court is *Marian Fraser v. The State of Texas*, cause number 07-15-00267-CR.

- IV -

On June 9, 2017 a two-judge panel of Court of Appeals reversed the case in a published opinion: *Marian Fraser v. State*, 2017 WL 2536861, ___ S.W.3d ___ (Tex. App. – Amarillo June 9, 2017)(not yet reported). No motion for rehearing was filed, making any petition for discretionary review due Monday, July 10, 2017 (The 30th day falling on a weekend).

- V -

The State has taken no previous extensions, and the requested extension is not taken for purposes of delay, but rather to adequately address the legal issues warranted by the decision of the court of appeals.

- VI -

The undersigned counsel was appointed as an independent prosecutor on appeal. His normal assignments and duties for the Office of the Tarrant County Criminal District Attorney, including drafting two reply briefs and responses to two post-conviction habeas writs, as well as representing the State in all extradition

matters relating to Tarrant County have prevented him from drafting the State's Petition for Discretionary Review by the present deadline.

- VII -

WHEREFORE, PREMISES CONSIDERED, the State of Texas prays that this Court grant this State's Motion for Extension of Time to File its Petition for Discretionary Review and **extend the time for its filing to Wednesday, August 9, 2017.**

Respectfully submitted,

MELINDA WESTMORELAND
Criminal District Attorney Pro Tem
Independent Prosecutor
McLennan County, Texas
State Bar No. 24040198

/s/ David L. Richards
DAVID L. RICHARDS, Assistant
Criminal District Attorney
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CERTIFICATE OF SERVICE

A true copy of the State's motion has been e-served on opposing counsel, Hon. E. Allan Bennett, Sheehy, Lovelace & Mayfield, P.C., 510 North Valley Mills Drive, Suite 500, Waco, TX 76710-6077, abennett@slmpc.com, and to the Office of the State Prosecuting Attorney: information@spa.texas.gov, P.O. Box 13046, Austin, Texas, 78711 on this 7th day of July, 2017.

/s/ David L. Richards
DAVID L. RICHARDS

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